

IN THE UNITED STATES DISTRICT COURT
WESTERN DIVISION OF TEXAS
AUSTIN DIVISION

JONATHAN LANGLEY
Plaintiff

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION
Defendant

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Case 1:18-cv-00443-LY

**PLAINTIFF'S RESPONSE TO DEFENDANT
INTERNATIONAL BUSINESS MACHINES CORPORATION'S
OPPOSED MOTION FOR ORDER DECLARING TIMELY FILING**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

NOW COMES Plaintiff Jonathan Langley, and files this, his Response in Opposition to Defendant International Business Machines Corporation's (hereinafter "IBM") OPPOSED MOTION FOR ORDER DECLARING TIMELY FILING (Docket No. 167) of IBM's Motion for Summary Judgment (Docket No. 126) and would respectfully show as follows:

I. SUMMARY OF THE ARGUMENT

Plaintiff Jonathan Langley respectfully requests that the Court allow the summary judgment and other pending motions to be decided on the merits alone, or, in the alternative, to deny Defendant International Business Machines Corporation's Opposed Motion for Order Declaring Timely Filing.

II. ARGUMENTS

Jonathan Langley would prefer that this case—and all of the many *substantive* motions pending in it—be decided on the merits. In that vein, Langley did not initially object to IBM's failure to follow this Court's Order and seek leave to file its motion for summary judgment

untimely. Langley's objection to IBM's untimely filing without leave only came in response to IBM's motion practice allegation that it was *actually harmed* by Langley's subsequent summary judgment response that was filed approximately 52 minutes after midnight due to computer malfunctions.¹ Langley's objections took the form of mainly pointing out that IBM's motion for summary judgment was filed a day later than it was representing to the Court due to IBM's own error, that Plaintiff's response was actually within the 14-day summary judgment deadline based on IBM's true filing date, and that IBM should not be throwing stones in glass houses when it did not itself seek leave for the filing of its entire motion for summary judgment, as this Court ordered.²

Langley and his counsel would prefer that this case be determined *only* on the merits of the question of whether IBM discriminated against him. Because IBM has resorted to instead obstructing and objecting to every bit of discovery and procedural minutiae its attorneys can conjure up in this case³, however, Langley is forced to preserve his argument that his summary judgment response filing was not untimely due to IBM's own timing of, and failures associated with, its corrected motion for summary judgment, and to—if needed—object to such failures outright.⁴ To that end, Langley incorporates by reference herein all of the arguments and objections he previously made in Plaintiff's Reply to Defendant's Combined Opposition to Plaintiff's Opposed Motion for Leave to Exceed Page Limit on Plaintiff's Response to Defendant's Motion for Summary Judgment, Plaintiff's Motion for Leave to File Plaintiff's Response to Defendant's Motion for Summary Judgment Untimely, Plaintiff's Motion for Leave

¹ See generally Dkt. No. 125, 159, & 166.

² See generally Dkt. No. 166, pgs. 2-3.

³ See generally Dkt. No. 29, 51, 52, 57, 58, 59, 74, 75, 86, 96, 135, 140, 148, 159, 167, & 170.

⁴ See generally Dkt. No. 125, 126.

to File a Corrected Response, and Plaintiff's Motion for Leave to File Corrected Exhibits Under Seal.⁵

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff Jonathan Langley respectfully requests that the Court allow the summary judgment and other pending motions to be decided on the merits alone, or, in the alternative, to deny Defendant International Business Machines Corporation's Opposed Motion for Order Declaring Timely Filing.

Respectfully submitted,



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⁵ See Dkt. No. 166.

CERTIFICATE OF SERVICE

I hereby certify that on 19th day of August, 2019, I electronically filed the foregoing RESPONSE IN OPPOSITION with the Clerk of Court using the CM/ECF system, which sent notification of such filing to the Court and Defendant's counsel. The sealed documents were emailed to Defendant's counsel.



Heidi A. Coughlin